

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF TOLL AND ACCESS)
CHARGE PRICING AND TOLL SETTLEMENT)
AGREEMENTS FOR TELEPHONE UTILITIES) CASE NO. 8838
PURSUANT TO CHANGES TO BE EFFECTIVE)
JANUARY 1, 1984)

O R D E R

Introduction

On June 2, 1986, AT&T Communications of the South Central States, Inc., ("AT&T") filed an information and data request directed to all local exchange carriers. AT&T sought the following information:

Please provide the latest embedded cost study results separately, for all categories of access, disaggregated at least to the following level; carrier common line, traffic sensitive switched access, special access, billing and collection and miscellaneous access. Provide the revenues and costs for the intrastate intraLATA toll service and intrastate and intraLATA private line service.¹

On July 3, 1986, Continental Telephone Company of Kentucky, Inc., ("Continental") filed an objection to AT&T's information and data request, based "on the ground that it calls for data which is

¹ Information and Data Request of AT&T Communications of the South Central States, Inc., page 1.

outside the scope of this proceeding and includes information which is proprietary in nature."²

On August 29, 1986, AT&T filed a motion to compel Continental to respond to its information and data request. Subsequently, on September 26, 1986, the Commission granted AT&T's motion and denied Continental's objection, stating, in part, that "AT&T's information and data request is a valid request to which Continental should respond, as soon as possible."³

Although the Commission ordered Continental to respond to AT&T's information and data request, no filing date was specified and on October 8, 1986, AT&T filed another motion to require Continental to respond to its information and data request by November 3, 1986. On October 30, 1986, the Commission ordered Continental to respond to AT&T's information and data request by November 10, 1986.

Meanwhile, on October 24, 1986, Continental responded to AT&T's information and data request with a summary of access service revenue requirement based on Federal Communications Commission ("FCC") Part 67, Separations Procedures, and Part 69, Access Charges, methodology, and a summary of intraLATA revenue.

On November 21, 1986, Continental filed a motion for an Order finding that it had complied with the Commission's Order of

² Objection of Continental Telephone Company of Kentucky to Data Request of ATTCOM, page 1.

³ Order of the Commission dated September 26, 1986, in Case No. 8838, page 2.

October 30, 1986, with its response to AT&T's information and data request on October 24, 1986.

On November 26, 1986, AT&T filed a motion for sanctions against Continental for failure to comply with the Commission's Order of September 26, 1986, which ordered Continental to respond to AT&T's information and data request.⁴ On December 8, 1986, Continental filed a response to AT&T's motion for sanctions.

Discussion

In its motion of November 21, 1986, Continental argues that it complied with the Commission's Order to respond to AT&T's information and data request with its filing of cost study results on October 24, 1986. Continental further argues that it should not be required to file detailed cost study information on the grounds that the cost study "results are sufficient for the Commission to determine whether Contel's interLATA access rates are being subsidized by its intraLATA rates and vice-versa"⁵ and "more importantly, Contel is concerned that providing ATTCOM (or any other IXC or LEC) with complete Part 67 and 69 studies could put Contel at a competitive disadvantage by disclosing to potential competitors sensitive cost information."⁶ That is,

⁴ Prior to filing its motion for sanctions against Continental, on November 26, 1986, AT&T notified Continental by correspondence dated November 14, 1986, that it considered Continental's response "inadequate" and requested an "adequate" response by November 21, 1986.

⁵ Motion of Continental Telephone Company of Kentucky for an Order Finding that it has Complied with the Commission's Order of October 30, 1986, page 2.

⁶ Ibid., pages 2-3.

Continental and AT&T would be competitors if the Commission chooses to allow intraLATA competition. Finally, Continental states that it is "willing to provide this information to the Commission under the protection of confidentiality, but not to ATTCOM."⁷

In its motion of November 26, 1986, AT&T contends that Continental did not comply with the Commission's Order to respond to its information and data request with its filing of cost study results on October 24, 1986. AT&T contends that the information filed by Continental "merely sets forth a series of undefined 'revenue requirements' and 'adjusted total compensation'"⁸ that does not provide the information requested, "that is, disaggregated embedded cost study results for all categories of access as well as costs and revenues for intralata toll and private line services."⁹ AT&T further notes that Continental admits that it has detailed cost study information in its possession and that this information is necessary in order for AT&T "to defend its substantial interests in this case."¹⁰ Therefore, based on Continental's alleged refusal to comply with the Commission's Order to respond to AT&T's information and data

⁷ Ibid., page 3.

⁸ Motion of AT&T Communications of the South Central States, Inc., for Sanctions Against the Continental Telephone Company of Kentucky, Inc., for Failure to Comply With an Order of the Commission Dated the 26th Day of September, 1986, page 2.

⁹ Ibid.

¹⁰ Ibid., page 5.

request, AT&T requests that the Commission (1) strike any testimony filed by Continental concerning its revenue requirements, (2) set Continental's traffic sensitive access rates at the lowest level granted to any other local exchange carrier and its carrier common line charge and ULAS revenue requirement at zero, and (3) assess Continental the costs and attorney fees incurred by AT&T in this dispute.¹¹

In its response of December 8, 1986, to AT&T's motion for sanctions, Continental states that (1) confidentiality does not offer Continental adequate relief in this case, (2) the detailed cost study information that Continental has in its possession is not based on embedded cost analysis, as stated in AT&T's interrogatory, but, instead, on fully allocated cost analysis using FCC Parts 67 and 69 regulations, (3) allowing AT&T access to Continental's detailed cost study information could be detrimental to Continental upon deregulation, and (4) AT&T's request for embedded cost information does not entitle it to Continental's fully allocated cost information.¹² Continental adds that in the event the Commission disagrees and orders that its detailed cost information be made available to AT&T, that it be made available for AT&T's inspection at its corporate headquarters in Merrifield,

¹¹ Ibid., pages 6-7.

¹² Response of Continental Telephone Company of Kentucky to Motion of AT&T for Sanctions, pages 1-2.

Virginia, presumably due to the voluminous nature of the information.¹³

In the opinion of the Commission, both Continental's motion of November 21, 1986, and AT&T's motion of November 26, 1986, should be denied. However, Continental should allow AT&T to inspect its detailed cost information at its corporate headquarters in Merrifield, Virginia, at a mutually agreed time and under mutually agreed terms of confidentiality, within 30 days from the date of this Order.

Continental's motion of November 21, 1986, should be denied based on AT&T's claim that detailed cost information is necessary to its participation in this case. It is clear that AT&T has substantial interests in this case. Furthermore, although Continental's objection to disclosing detailed cost information to a potential competitor may have merit in the long run, toll deregulation and intraLATA competition are not issues in this case, and the Commission has no plans to consider these issues at this time. Lastly, the issue of whether AT&T is entitled to fully allocated cost information when it requested embedded cost information is without merit.

AT&T's motion of November 26, 1986, should be denied based on Continental's equally substantial interests in this case and the impact that AT&T's requested sanctions would have upon Continental's representation of its interests. Striking

¹³ Ibid., page 3.

Continental's testimony would be unreasonable, as would setting its traffic sensitive access rates at the lowest level granted to any other local exchange carrier and its carrier common line charge and ULAS revenue requirement at zero. Finally, the costs and attorney fees associated with participating in a case before the Commission should be borne by each party to the extent that each party incurs costs and attorney fees.

Findings and Orders

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. Continental's motion of November 21, 1986, should be denied.
2. AT&T's motion of November 26, 1986, should be denied.
3. Continental should allow AT&T to inspect its detailed cost information at its corporate headquarters in Merrifield, Virginia, at a mutually agreed time and under mutually agreed terms of confidentiality, within 30 days from the date of this Order.

IT IS THEREFORE ORDERED that:

1. Continental's motion of November 21, 1986, be and it hereby is denied.
2. AT&T's motion of November 26, 1986, be and it hereby is denied.
3. Continental shall allow AT&T to inspect its detailed cost information at its corporate headquarters in Merrifield,

Virginia, at a mutually agreed time and under mutually agreed terms of confidentiality, within 30 days from the date of this Order.

Done at Frankfort, Kentucky, this 14th day of January, 1987.

PUBLIC SERVICE COMMISSION

Richard D. Herman, Jr.
Chairman

[Signature]
Vice Chairman

Spencer N. Williams, Jr.
Commissioner

ATTEST:

Executive Director